

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen DiFiore	Team: Squad #7	CCRB Case #: 202000443	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/17/2019 12:03 AM	Location of Incident: opposite § 87(2)(b)	Precinct: 73	18 Mo. SOL 1/17/2021	EO SOL 9/3/2021	
Date/Time CV Reported Mon, 11/04/2019 11:09 AM	CV Reported At: CCRB	How CV Reported: E-mail	Date/Time Received at CCRB Mon, 11/04/2019 11:09 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Girard Moscato	00663	933067	123 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Arnold Nickey	04112	906933	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Girard Moscato	Discourtesy: Police Officer Girard Moscato spoke discourteously to an individual.	
B.POM Girard Moscato	Abuse: Police Officer Girard Moscato threatened to arrest an individual.	
C.POM Girard Moscato	Discourtesy: Police Officer Girard Moscato spoke discourteously to an individual.	
D.POM Girard Moscato	Discourtesy: Police Officer Girard Moscato spoke discourteously to an individual.	
E.POM Girard Moscato	Abuse: Police Officer Girard Moscato threatened to arrest an individual.	
F.POM Girard Moscato	Discourtesy: Police Officer Girard Moscato spoke discourteously to an individual.	
G.POM Girard Moscato	Abuse: Police Officer Girard Moscato threatened to arrest an individual.	

Case Summary

On November 4, 2019, IAB sent this complaint to the CCRB via IAB log number 2019-39300.

BWC was received for this case (Board Review 01). The IAB log also referenced BWC linked to what would become four other cases for the same officer. These cases are 201909593, 202000447, 202000450, and 202000452. § 87(2)(g)

On July 17, 2019 at approximately 12:04 a.m., an unidentified woman was allegedly assaulted near the bus stop opposite 985 Rockaway Avenue in Brooklyn. PO Girard Moscato, then of the 73rd Precinct responded to the scene. While investigating the assault, PO Moscato told an unidentified male to “walk the fuck off,” (**Allegation A: Discourtesy,** § 87(2)(g)) PO Moscato then threatened to arrest the individual for obstructing government administration (**Allegation B: Abuse of Authority,** § 87(2)(g)) PO Moscato then told the individual that he is “full of shit” and sarcastically called him a “law student” and told this individual that he has “probably been locked up ten times.” (**Allegation C: Discourtesy,** § 87(2)(g)) In response to an unknown statement that the individual made, PO Moscato said, “I don’t give a shit,” (**Allegation D: Discourtesy,** § 87(2)(g)) and told the individual that he would be arrested (**Allegation E: Abuse of Authority,** § 87(2)(g))

When PO Moscato spoke with a second individual on scene, he told this second individual that he was “full of shit” (**Allegation F: Discourtesy,** § 87(2)(g)) PO Moscato then reinitiated conversation with the first individual, where he threatened him with an arrest if he did not produce identification (**Allegation G: Abuse of Authority,** § 87(2)(g))

Findings and Recommendations

Allegation (A) Discourtesy: Police Officer Girard Moscato spoke discourteously to an individual.

Allegation (B) Abuse of Authority: Police Officer Girard Moscato threatened to arrest an individual.

Allegation (C) Discourtesy: Police Officer Girard Moscato spoke discourteously to an individual.

Allegation (D) Discourtesy: Police Officer Girard Moscato spoke discourteously to an individual.

Allegation (E) Abuse of Authority: Police Officer Girard Moscato threatened to arrest an individual.

On July 17, 2019 at approximately 12:04 a.m., PO Girard Moscato was responding to a report of a woman being assaulted. BWC captures conversations he had with an unidentified male who supposedly witnessed the assault. At 00:15, PO Moscato asks for the individual’s information, to which the individual replies, “You don’t need my information.” PO Moscato then tells the individual, “Then you can walk the fuck off.” The individual did not leave as PO Moscato requested because the woman who was allegedly assaulted was using the individual’s phone to call someone.

PO Moscato said in his interview that he told the individual to “walk the fuck off” because the individual refused to provide his information and as such had no purpose being there (Board Review 02). PO Moscato told the individual to leave again and again refused. PO Moscato told the individual that he would be arrested for interfering with the investigation. In his CCRB statement, PO Moscato said that the individual could have been arrested for obstructing government administration for interfering with his investigation of the assault. PO Moscato also said that the individual was not required to provide his identification, but that he was told “aggressively” to leave.

The individual, visibly frustrated with PO Moscato, walked away and called PO Moscato a “crack ass nigga,” to which PO Moscato replied, “I’m not a crack ass nigga.” PO Moscato said that he was only denying what the individual said to him and was not using a racial slur to refer to the individual who said it. Shortly after this, PO Moscato says, “take a walk away, law student” to the individual, but PO Moscato did not remember why he made that comment.

Around 1:10 in the BWC, as the individual walks away, the individual makes a comment about “the academy.” PO Moscato did not remember what this comment referred to. PO Moscato then replies, “You’re full of shit, guy. You’ve probably been locked up ten times.” PO Moscato said that he was most likely making a general statement about people in Brownsville who are outside in the middle of the night, stating that they are most likely not people who are going to work.

Around 1:28, as PO Moscato walks away to speak with someone else, the individual can be heard in the background of the BWC saying something, but it is unclear what he is saying because he is about half a block away. On BWC, PO Moscato responds, “Go ahead. I don’t give a shit, guy. Who do you think you’re threatening? You’re threatening me right now. You’re about to get arrested for obstructing government administration. You’re gonna get arrested in a second here.” PO Moscato did not remember what the individual said regarding a threat or what the nature of the threat was. PO Moscato said that based on the video, he believed that the individual had threatened him but had no independent recollection of the threat.

Patrol Guide Procedure 200-02 requires officers to “render our services with civility and respect” (Board Review 03).

Patrol Guide Procedure 208-01 states that police officers may arrest someone without a warrant “For a crime (within presence or not) and reasonable cause exists that arrested person committed the crime” (Board Review 04).

Section 195.05 of the NYS Penal Law states, “A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering ... with radio, telephone, television or other telecommunications systems owned or operated by the state, or a county, city, [or] town” (Board Review 05).

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (F) Discourtesy: Police Officer Girard Moscato spoke discourteously to an individual.

At 1:50, PO Moscato approached a second individual who was suspected of assaulting the woman. PO Moscato asked the man what his relationship was to the woman and he said that she is his wife, to which PO Moscato responded, “You’re full of shit.” PO Moscato said in his statement that he did not believe this man because he appeared to be drunk and because what he was saying did not match what came over on the radio run, but he did not remember any of the details of how the call came over. PO Moscato added that he was using the word “shit” as a substitute for “stuff.”

Patrol Guide Procedure 200-02 requires officers to “render our services with civility and respect.”

§ 87(2)(b), § 87(2)(g)

Allegation (G) Abuse of Authority: Police Officer Girard Moscato threatened to arrest an individual.

Toward the end of the incident and after briefly speaking with the accused assaulter, PO Moscato reengages in conversation with the individual at around 3:50 in the BWC recording and asks him a final time for his identification and says if he does not provide it, there will be an “issue.” PO Moscato said in his interview that this “issue” would have been an arrest for obstruction of government administration or a summons for disorderly conduct. PO Moscato said that the individual was being disorderly by disobeying a lawful order and creating hazardous conditions by alarming people walking by in public. The only order given to the individual is PO Moscato requesting to see the individual’s identification. At this time, there are about three other people on scene, not including PO Moscato, the individual, or the alleged assault § 87(2)(b). None of them interact with the parties and one of them is not even looking at what is going on.

BWC does not depict anyone else interacting with the parties involved in this incident. BWC does not depict the individual interrupting a gathering of people, obstructing traffic, or otherwise

engaging in dangerous or physically violent behavior. At the point that PO Moscato is telling the individual that he was going to have a problem, the individual had not made any obscene remarks, gestures, or other loud noise.

Patrol Guide Procedure 208-01 states that police officers may arrest someone without a warrant “For a crime (within presence or not) and reasonable cause exists that arrested person committed the crime” (Board Review 04).

Section 195.05 of the NYS Penal Law states, “A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering ... with radio, telephone, television or other telecommunications systems owned or operated by the state, or a county, city, [or] town” (Board Review 05).

Section 240.20 of the NYS Penal Law states, “A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof: 1. He engages in fighting or in violent, tumultuous or threatening behavior; or 2. He makes unreasonable noise; or 3. In a public place, he uses abusive or obscene language, or makes an obscene gesture; or 4. Without lawful authority, he disturbs any lawful assembly or meeting of persons; or 5. He obstructs vehicular or pedestrian traffic; or 6. He congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or 7. He creates a hazardous or physically offensive condition by any act which serves no legitimate purpose” (Board Review 06).

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

PO Moscato has been a member of service for 16 years and a subject officer in 10 prior CCRB complaints and 30 prior allegations, none of which were substantiated. § 87(2)(g)

[REDACTED]

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of the date of this report, the Office of the Comptroller’s Office has not identified any Notices of Claims relevant to this incident.

Squad No.: 7

